

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

	)	
MARGARITA MUNOZ,	)	
Petitioner	)	
	)	
v.	)	CIVIL NO. 04-11699-EFH
	)	
UNITED STATES OF AMERICA	)	
Respondent	)	
	)	

UNITED STATES' FOURTH MOTION FOR EXTENSION  
OF TIME IN WHICH TO FILE ITS RESPONSE

The United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully moves the Court for additional time in which to file its response to the motion filed by the petitioner, Margarita Munoz ("Munoz"), pursuant to 28 U.S.C. § 2255. The government seeks an additional sixty days in which to file its response and requests that the Court enter an order requiring it to be filed on or before October 18, 2005. The grounds for this motion are as follows:

1. On or around July 27, 2004, Munoz filed a motion pursuant to 28 U.S.C. § 2255 claiming: (1) ineffective assistance of counsel, (2) denial of her right to appeal, and, (3) violation of her 6<sup>th</sup> Amendment rights as defined by the Supreme Court in Blakely v. Washington, 540 U.S. 965 (2004).

2. The government previously filed three requests to extend the time in which it was to respond. The last such requests were based upon the fact that the government concluded that in order

to respond properly to the defendant's argument that she had been denied her right to appeal, the government needed a copy of the transcript from the plea hearing.

3. On April 28, 2005, the government ordered a copy of the transcript from the court reporter, who is now retired. The reporter indicated that it would not be available for at least 60-days. Although the sixty-day period has come and gone, the government has not yet received the transcript, and was recently advised it would not be available until September, 2005, at the earliest.

4. There are certain issues that the government anticipates including in its response, such as timeliness, to which the government can respond without the transcript. Other issues, such as the appeal waiver, require the transcript. Therefore, the government is currently unable to completely and accurately respond to the § 2255 motion, and will not be able to do so, until it receives the transcript from the court reporter.

5. Accordingly, the government requests that it be given an additional 60-day period to respond to the defendant's 2255 petition. The 60-day period is requested in order to provide for any delay that may be experienced by the court reporter in transcribing the plea hearing.

6. In addition, the government has been unable to locate in its files, or in the court's files, a copy of docket no. 390,

which is docketed as a "letter (non motion) filed by Margarita Munoz, dated: 5/24/02 re: appeal."

WHEREFORE, the government requests that its motion be granted and that the Court order that the government's response be filed on or before October 18, 2005.

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Susan M. Poswistilo  
SUSAN M. POSWISTILO  
Assistant U.S. Attorney

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing will have been served upon the petitioner (pro se) by first-class mail on the 19<sup>th</sup> day of August, 2005, at the following address:

Margarita Munoz  
Alderson Prison Camp  
Box A  
Alderson, WV 24910

/s/ Susan M. Poswistilo  
SUSAN M. POSWISTILO  
ASSISTANT U.S. ATTORNEY